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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,828	09/17/2003	Martha Kelsey	29621/38807A	4889
4743	7590	02/08/2006	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			WILLATT, STEPHANIE L	
		ART UNIT	PAPER NUMBER	
		3732		

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/664,828	KELSEY, MARTHA
	Examiner Stephanie L. Willatt	Art Unit 3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 September 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 9-14 is/are allowed.
- 6) Claim(s) 1-8 and 15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20 February 2004.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Secreto (US 6,394,101).

Secreto discloses an adjustable hair roller comprising a body having an inner surface and an outer surface (Figure 3). The outer surface is capable of engaging with strands of hair. An adjustment mechanism has a first portion (first protrusion 26 that is aligned with an aperture 24 in Figure 3) extending inwardly from the inner surface at a first location, and second portion (a protrusion 26 that is opposite the first protrusion 26 in Figure 3) extending inwardly from the inner surface approximately opposite the first location. The body has a first cross-section when the adjustment mechanism is engaged in a first position. The first position is when the first portion (first protrusion 26 that is aligned with aperture 24 in Figure 3) engages aperture (24). The body has a second cross-section when the adjustment mechanism is engaged in a second position. The second position is when the first portion (first protrusion 26) engages another aperture (24). The first and second cross-sections of the body are a cross-section

perpendicular to a longitudinal axis of the body. As discussed in column 3, lines 31-37, the outer surface includes hook fasteners.

3. Claims 1, 8, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Garrett (US 3,623,491).

Garrett discloses an adjustable hair roller comprising a body having an inner surface and an outer surface (Figures 2 and 3). The outer surface is capable of engaging with strands of hair. An adjustment mechanism has a first portion (reinforced portion 5) extending inwardly from the inner surface at a first location, and second portion (expansion means 8) extending inwardly from the inner surface approximately opposite the first location. The body has a first cross-section when the adjustment mechanism is engaged in a first position, as shown in Figure 2. The body has a second cross-section when the adjustment mechanism is engaged in a second position, as shown in Figure 3. The first and second cross-sections of the body are a cross-section perpendicular to a longitudinal axis of the body. The first cross-section is generally circular (Figure 2), and the second cross-section shape is generally oval (Figure 3). When the roller is adjusted from having the position in Figure 2 to the position in Figure 3, the user engages the first portion (reinforced portion 5) with the second portion (expansion means 8). In order to engage the first portion (reinforced portion 5) with the second portion (expansion means 8), the user must place a force on the outer surface of the roller.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Gonzalez (US 4,785,834).

Gonzalez discloses an adjustable hair holder comprising a body having an inner surface (Figure 2) and an outer surface (Figure 4). The outer surface (Figure 4) is capable of engaging with strands of hair. An adjustment mechanism has a first portion (40) extending inwardly from the inner surface at a first location, and second portion (40') extending inwardly from the inner surface approximately opposite the first location. The body has a first cross-section when the adjustment mechanism is engaged in a first position. The first position is when the first and second portions (40, 40') are not snapped together, as shown in Figures 2 and 4. The body has a second cross-section when the adjustment mechanism is engaged in a second position. The second position is when the first and second portions (40, 40') are snapped together, as shown in Figure 3. The first and second cross-section of the body is a cross-section perpendicular to a longitudinal axis of the body. The first portion (40) of the adjustment mechanism includes a plurality of notches, since it comprises a female snap body, and female snap bodies include two annular notches. The second portion (40') of the adjustment mechanism includes a key adapted to engage with the notches, since it comprises a male snap body.

5. Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Porter (US 5,165,430).

Porter discloses an adjustable hair holder comprising a body having an inner surface (inside the plates) and an outer surface (outside the plates). The outer surface is capable of engaging with strands of hair. An adjustment mechanism has a first portion (clamping boss 31) extending inwardly from the inner surface at a first location, and second portion (rib 33) extending inwardly from the inner surface approximately opposite the first location. The body has a first cross-section when the adjustment mechanism is engaged in a first position. The first position is when the first portion (clamping boss 31) and the second portion (rib 33) are not connected to each other. The body has a second cross-section when the adjustment mechanism is engaged in a second position. The first position is when the first portion (clamping boss 31) and the second portion (rib 33) are connected to each other. The first and second cross-sections of the body is a cross-section perpendicular to a longitudinal axis of the body. The first portion (clamping boss 31) of the adjustment mechanism includes a plurality of notches (conduits 32). The second portion (rib 33) of the adjustment mechanism includes a key (tubes 34) adapted to engage with the notches (conduits 32). The first portion (clamping boss 31) of the adjustment mechanism includes a plurality of circular notches (conduits 32) extending through a majority of the first portion (clamping boss 31), and the second portion (rib 33) of the adjustment mechanism includes a generally cylindrical key (tubes 34) adapted to engage with the circular notches.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garrett (US 3,623,491) in view of Brenner (US 5,944,029).

Garrett does not disclose that the outer surface of the roller comprises hooks from VELCRO® material. Brenner teaches the use of hooks from VELCRO® material as a means for attaching the hair to the outer surface of hair rollers in column 4, lines 27-30. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include hooks from VELCRO® material on the outer surface of roller of Garrett, as taught by Brenner, in order to provide a grip for the hair on the outer surface.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Secreto (US 6,394,101) in view of Brenner (US 5,944,029).

Secreto does not disclose that the hooks on the outer surface of the roller comprises VELCRO® material. Brenner teaches the use of hooks from VELCRO® material as a means for attaching the hair to the outer surface of hair rollers in column 4, lines 27-30. It would have been obvious to one having ordinary skill in the art at the

time the invention was made to include hooks from VELCRO® material on the outer surface of roller of Secreto, as taught by Brenner, since VECRO® is a well known type of hooks used for the same purpose as the hooks of Secreto.

Allowable Subject Matter

9. Claims 9-14 are allowed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bergmann, Habibi ('128 and '496), Garrett ('235), van Deursen, Rios, Belmonte et al, Chen et al., Simoneaux, and Roberts disclose adjustable hair rollers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is (571) 272-4721. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



slw



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